



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

CERTIFIED MAIL 7006 0100 0005 1887 6830
RETURN RECEIPT REQUESTED

IN THE MATTER OF:

BIOX Corporation

ATTENTION:

Mr. Kevin Norton,
Chief Executive Officer
BIOX Corporation
585 Wentworth Street North
Hamilton, Ontario L8L5X5
Canada

CC: Mr. Greg Buczynski,
Quality Assurance Manager
BIOX USA Limited
89 Headquarters Plaza N
4 Speedwell Ave #1451
Morristown, NJ 07960

Request for Information under Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a)

The United States Environmental Protection Agency (EPA) hereby requires you, as the Chief Executive Officer of BIOX Corporation (BIOX), to submit certain information relating to renewable fuel production and importation by BIOX and its affiliates; BIOX Canada Limited; BIOX USA Limited; and BIOX Bayonne, LLC, as part of an EPA investigation to determine BIOX's compliance with Section 211 of the Clean Air Act (CAA), 42 U.S.C. § 7545, and the applicable renewable fuel regulations at 40 C.F.R. Part 80, Subpart M. This letter, and the enclosed appendices, are collectively referred to as the Information Request. Appendix A provides instructions for responding to the Information Request. Appendix B provides relevant definitions, and Appendix C specifies the information that you must submit to comply with the Information Request. You must submit this information to the EPA

representative listed below within 60 calendar days from the date of this request. Please carefully review the instructions, definitions, and specific information request as you prepare your response.

The EPA issues this Information Request under Section 114(a) of the CAA, 42 U.S.C. § 7414(a). Under Section 114(a), the Administrator of the EPA may require any person who is subject to, among other provisions, Section 211 of the CAA, 42 U.S.C. § 7545, to provide information necessary to determine whether the person has acted or is acting in compliance with Section 211 and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Air Enforcement Division, Office of Enforcement and Compliance Assurance.

Failure to provide the required information may result in an enforcement action pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries. It is important that your responses be clear, accurate, and complete. We will regard submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy, as a violation of the CAA.

BIOX must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the enclosed information, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.

We may use any information submitted in response to this request in an administrative, civil, or criminal action.


You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this request, in accordance with the procedures described in the confidentiality of business information (CBI) regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your claim. Appendix D of this Information Request specifies the assertion and substantiation requirements for business confidentiality claims. EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via courier service or overnight delivery, to:

Tony Miller, Chemical Engineer
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance, 8MSU
1595 Wynkoop Street
Denver, CO 80202

Any questions concerning this request for information should be directed to Tony Miller of my staff at (303) 312-7161 or miller.anthony@epa.gov.

3/5/14
Date



Phillip A. Brooks, Director
Air Enforcement Division

Appendix A Instructions

1. Provide a complete, detailed response to each of the requests. For any narrative responses, respond in English, in written document form.
2. This Information Request is a continuing request. You must promptly supplement your response in the event that you learn that you possess responsive information not yet produced, or if you gain possession, custody, or control of responsive information after initially responding to this Information Request.
3. For each answer and the information produced, please provide the number of the question to which it responds and identify each person who provided information that was used to prepare that answer.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information necessary for a response is neither in your possession nor available to you, indicate in your response why the information is not available or in your possession and identify any source that either possesses, or is likely to possess, the information.
6. All submitted information should be copies and not original information.
7. Where BIOX has previously submitted to the EPA any of the information requested, re-submit the information in the format requested. Identify the material that was previously provided, the date on which it was provided, and the person at the EPA to whom it was provided.
8. Provide the information requested by each item of Appendix C, for the period from July 1, 2010, until the date you respond to the Information Request.
9. Where a specific entity is responsible for the response to a request in Appendix C (e.g., BIOX Corporation; BIOX USA Limited; BIOX Bayonne, LLC; or BIOX Canada Limited), indicate in your response which entity is responding to the request.
10. For all information provided in response to this Information Request that evidences a transfer as defined below, identify whether the transfer was of title, ownership, physical custody of a product or commodity, or any combination of the three.
11. Please provide two copies of your response to this request for information in electronic form. Please provide the certification statement in hard copy form with the two electronic copies of your response.

Appendix B

Definitions

1. All terms used in this Information Request will have their ordinary meaning unless such terms are defined in the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, or the implementing fuels regulations at 40 C.F.R. Part 80, Subpart M.
2. The term “information” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
3. “Person” or “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
4. “BIOX,” “you” and “your” refers to BIOX Corporation, including BIOX Canada Limited; BIOX USA Limited; and BIOX Bayonne, LLC, and any affiliates, predecessors, successors, and assignees.
5. “Affiliate” or “affiliated” is used to indicate a relationship to a specified entity, and means any entity that, directly or indirectly or through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control with such entity.

6. The term “transfer” means every mode, direct or indirect, absolute or conditional, voluntary or involuntary of disposing of or parting with a product or commodity (e.g., feedstocks, Renewable Identification Numbers (RINs), renewable fuel) to or from a person or entity.

Appendix C

Information Request

BIOX Corporation must submit a copy of the following information to the EPA, pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), within 60 calendar days from the date of this Information Request.

1. Please provide a detailed, written description of the current business structure of BIOX and its affiliates, and any changes in the business structure that have occurred since July 1, 2010 to the present. The description must include a timeline that explains: 1) all changes in the business structure of BIOX, and 2) all actions by BIOX to acquire any interest or control in any other entity.
2. Please provide copies of all contracts and other written agreements related to the product of renewable fuel or the Renewable Fuel Standard (RFS) between BIOX and any other entity including, but not limited to, information (e.g., contracts or other agreements) relating to the following: 1) production and transfer of renewable fuel; 2) transfer of any co-products or byproducts from the production of renewable fuel; 3) transfer of feedstock and chemicals for renewable fuel production; and 4) transfer of RINs.

Fuel Production:

3. Please provide a narrative description and Process Flow Diagram of the renewable fuel production process for the BIOX production facility located at 41 Oliver Street, Hamilton, Ontario, Canada. The narrative description should include, but is not limited to, the identification of the process bottleneck (i.e., the step in the renewable fuel production process which determines the maximum capacity of the facility), the maximum daily capacity of renewable fuel production, and calculation(s) of how BIOX determined the permitted and peak capacity.
4. Please provide information in request 3 for any other renewable fuel facilities that BIOX, or any affiliate, owns, controls, or operates.
5. For all of the renewable fuel that you produced from July 1, 2010, to the date that BIOX responds to this request, provide the information requested below in an unlocked electronic spreadsheet format, such as .csv or .xls (locked spreadsheets and .pdf files are unacceptable). If you do not have responsive information, so state.
 - a. Identify the type of fuel (e.g., biodiesel, renewable diesel, ethanol) produced, the volume of the fuel produced, the processes used to produce the fuel, and the date the fuel was produced on a batch or daily basis.
 - b. Identify the address of the facility where the fuel was produced.
 - c. Identify the type and volume of each feedstock that was used to produce each volume of fuel provided in response to request 5 (a).

- d. Identify the type and volume of all chemicals (e.g., methanol, potassium hydroxide, tetrahydrofuran) that were used to produce each volume of fuel provided in response to request 5(a).
 - e. Identify the type and volume of each co-product and byproduct produced (e.g., glycerin) for each volume of fuel provided in response to request 5(a).
 - f. For each volume of fuel provided in response to request 5(a), identify whether the volume of fuel was used or designated for use as heating oil without further blending, how BIOX determined that the fuel was used as heating oil without further blending, and what information BIOX relied on to verify that the fuel was used as heating oil without further blending. Produce any information referenced in your response.
 - g. Identify whether the volume of fuel was designated and sold for use as transportation fuel or jet fuel without further blending, how BIOX determined that the fuel was used as transportation fuel or jet fuel without further blending, and what information BIOX relied on to verify that the fuel was used as transportation fuel or jet fuel without further blending for each volume of fuel provided in response to 5(a). Produce any information referenced in your response.
 - h. Identify if BIOX ever used palm oil as a feedstock to produce any volume of biodiesel.
- 6. Provide a detailed explanation of all sampling and testing procedures relating to each volume of fuel identified in response to request 5(a), and produce all information relating to the sampling and testing of the fuel, including, without limitation, laboratory records and procedures, and test results (original, as well as, transcribed and summarized results). This includes information relating to sampling and analysis performed by BIOX and any other entity.
 - 7. Provide a description of “bioheavies” and the process for producing “bioheavies” by BIOX.
 - 8. Provide all information in any way relating to the transfer of any co-products and byproducts including, but not limited to, glycerin and bioheavies produced during the production of the fuel identified in response to request 5.

Fuel & RIN Transfers:

- 9. Produce all product transfer documents in any way relating to:
 - a. the transfer of renewable fuel from or to BIOX or a third party, and
 - b. the transfer of all RINs from or to BIOX or a third party.

10. Produce any and all information not produced in response to request 9, above, relating to the purchase, sale, or transfer of the volume of fuel, with or without any RINs associated with the volume of fuel including, but not limited to, invoices, bills of lading, receipts, and shipping records.
11. For the fuel identified in response to request 5, provide a list of any and all transferees, counterparties, and purchaser(s) of the fuel, including any addresses, phone numbers, emails, and contact information of the transferees, counterparties, and purchaser(s).
12. Provide all information in any way relating to the purchase of RINs.

RIN Separations:

13. Identify all RINs separated by BIOX. Provide all information related to the identified RIN separations including, but not limited to, the EPA Moderated Transaction System (EMTS) separation reason code; the specific regulatory provisions BIOX relied on to separate the RINs; and all information that relates to the reason BIOX claimed it was allowed to separate the RINs.

Other:

14. State whether BIOX was the exporter of fuel during the period from July 1, 2010, until the date that BIOX responds to this request. If so, identify the following:
 - a. the type of renewable fuel in each shipment;
 - b. the volume of each shipment;
 - c. shipper/consignor/seller and consignee/buyer of each shipment of fuel;
 - d. the final destination of each shipment of fuel; and
 - e. state whether BIOX has met its renewable volume obligation under the RFS program for all renewable fuel shipments for which BIOX was the exporter.
15. For each shipment of fuel identified in response to request 14, provide copies of the following information:
 - a. all product transfer documents, invoices, shipping documents, including but not limited to, bills of lading, certificates of origin, and certificates of analyses, and all contracts, including but not limited to consummated contracts, associated with each shipment of renewable fuel for which BIOX was the exporter;
 - b. all information that show how you determined the volume of renewable fuel in the shipment;

- c. all information associated with each shipment of renewable fuel for which BIOX was the exporter, including electronic forms, documents, or information submitted through a website, or required by any United States (U.S.) or U.S. State governmental agency, including but not limited to, the U.S. Department of Commerce (including the Bureau of the Census), the U.S. Department of Energy (including the Energy Information Administration), the U.S. Internal Revenue Service (IRS), and the U.S. Department of Homeland Security's Bureau of Customs and Border Protection (CBP). This request includes, but is not limited to, copies of the Shipper's Export Declaration (SED) associated with each shipment or export transaction as required by the U.S. Department of Commerce, copies of the Electronic Export Information (EEI) submitted through the Automated Export System (AES) as required and defined by 15 C.F.R. Part 30, including where BIOX was the filer of the EEI for each shipment or export transaction as the U.S. Principle Party in Interest (USPPI), and the proof of filing citation, postdeparture filing citations, AES downtime filing citation, exemption or exclusion legends required in 15 C.F.R. § 30.4(e) provided to the exporting carrier as required by 15 C.F.R. Part 30 for each shipment or export transaction. Where the filer of the EEI for the shipment or export transaction was BIOX's U.S. authorized agent, provide copies of the written filing authorization that gives the U.S. authorized agent authority to file this information for BIOX;
 - d. the name, address, and phone number of the freight forwarder for each shipment or export transaction;
 - e. the name, address, and phone number of the carrier of the outbound vessel for each shipment or export transaction;
 - f. the Sea Carrier's Module filed under the AES, including outbound manifest information (copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest must also be submitted as part of the outbound manifest information), the Cargo Declaration Outward With Commercial Forms (i.e., CBP Form 1302-A), and Vessel Clearance Statements (CBP Form 1300) filed or submitted by the carrier of the outbound vessel for each shipment or export transaction as required under the CBP regulations at 19 C.F.R. Part 4. Where these forms, supporting documents, and other information were not submitted in electronic form by the sea carrier, provide hard copies of this information that were submitted; and
 - g. information related to tax credits obtained by BIOX from the IRS for each shipment or export transaction (including for any blended fuel).
16. Provide one copy of each report submitted under the RFS program, for the period from July 1, 2010, until the date that BIOX responds to this request. Also, indicate how the report was submitted (e.g., Central Data Exchange, mail).

Appendix D

Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Information Request for any business information entitled to confidential treatment under Section 114(c) of the CAA, 42 U.S.C. § 7414, and 40 C.F.R. Part 2, Subpart B. Under Section 114(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” *See* 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the CAA and 40 C.F.R. Part 2, Subpart B. The EPA will construe your failure to furnish a business confidentiality claim with your response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Information Request. Allegedly confidential portions of otherwise non-confidential information should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: 1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e); 2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; 3) the information is not and has not been reasonably obtainable by legitimate means without your consent; and 4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. *See* 40 C.F.R. § 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information forwarded in response to this Information Request, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following questions with respect to any information for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential, *e.g.*, until a certain date, until the occurrence of a specified event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

You must furnish comments to the above questions concurrent with your response to this Information Request if you have claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Tahani Rivers, Attorney-Advisor
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance, 8MSU
1595 Wynkoop Street
Denver, CO 80202

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these questions, as provided in 40 C.F.R. § 2.203(b). By submitting this information, you are consenting to a limited release of any confidential business information to EPA legal interns pursuant to 40 C.F.R. § 2.209(f). The EPA's legal interns are required to sign confidentiality agreements as a requirement of their participation in EPA related matters. Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.

CERTIFICATE OF MAILING

I, Wendy Vicchy certify that I sent a Request for Information under Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a) by Certified Mail, Return Receipt Requested, to:

Mr. Kevin Norton, Chief Executive Officer
BIOX Corporation
585 Wentworth Street North
Hamilton, Ontario L8L5X5
Canada

on the 5th day of March 2014.

Wendy Vicchy

Certified Mail Receipt Number: 7006 0100 0005 1887 6830